

SERVICE DATE – LATE RELEASE MAY 3, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1081X

SAN PEDRO RAILROAD OPERATING COMPANY, LLC—ABANDONMENT  
EXEMPTION—IN COCHISE COUNTY, AZ

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: May 3, 2006

By decision served February 3, 2006, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by San Pedro Railroad Operating Company, LLC (SPROC) of approximately 76.2 miles of railroad line in Cochise County, AZ, as follows: (1) the Bisbee Branch, between milepost 1085.0 at Bisbee Junction and milepost 1090.6 at Bisbee, a distance of 5.6 miles; and (2) the Douglas Branch (a) between milepost 1097.3 near Paul Spur and milepost 1106.5 near Douglas, a distance of 9.2 miles, (b) between milepost 1055.8 near Charleston and milepost 1097.3 near Paul Spur, a distance of 41.5 miles, and (c) between milepost 1040.15 near Curtiss and milepost 1055.8 near Charleston, a distance of 19.9 miles. The exemption was scheduled to become effective on March 5, 2006, unless an offer of financial assistance (OFA) was filed on or before February 13, 2006.

On February 13, 2006, Sonora-Arizona International LLC (Sonora) timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the line. By decision served on February 17, 2006, the Board, by the Director of the Office of Proceedings, found Sonora to be financially responsible and postponed the effective date of the exemption to permit the OFA process to proceed. Subsequently, on March 17, 2006, Sonora filed a request that the Board set the terms and conditions for the sale of this line. Thereafter, in a decision served on April 13, 2006, the Board set the purchase price for the line at \$5,632,644, on the condition that SPROC agree to indemnify Sonora for title defects, and established terms for transfer of the line. In that decision, the Board also directed SPROC to notify Sonora and the Board by April 18, 2006, if it agrees to indemnify Sonora for title defects.

By letter filed on April 21, 2006, SPROC agreed to provide such indemnification and stated that it will include appropriate documentation with the draft purchase and sale agreement that SPROC will provide Sonora. SPROC asked that the Board accept its late-filed letter, as no one would be prejudiced.

On April 24, 2006, Sonora filed notice that it accepts the Board's terms and conditions. Sonora notes that closing on this transaction will take place on or before July 12, 2006. Sonora also states that it does not object to the Board's acceptance of SPROC's late-filed letter.

When a person offering to purchase a line accepts the terms and conditions set by the Board, the Board's decision is binding. See 49 U.S.C. 10904 and 49 CFR 1152.27(h)(7). Accordingly, the sale will be approved and the petition for exemption will be dismissed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. SPROC's late-filed letter is accepted.
2. Under 49 U.S.C. 10904, Sonora is authorized to acquire the line.
3. Under 49 U.S.C. 10904 and 49 CFR 1152.27(h)(7), the petition for exemption is dismissed, effective on the date the sale is consummated.
4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary